

Financial Regulation: FY2018 Appropriations and the Financial CHOICE Act (H.R. 10)

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Background

On September 14, 2017, the House passed H.R. 3354, which included the FY2018 [Financial Services and General Government \(FSGG\) Appropriations bill](#) in Division D. The Senate Appropriations Committee released an FY2018 FSGG [chairmen's mark](#) on November 20, 2017, but further action has yet to occur on the bill. Much of the federal government, including agencies covered by FSGG appropriations, has been operating for the first part of FY2018 under successive continuing resolutions (P.L. 115-56, P.L. 115-90, P.L. 115-96, P.L. 115-120, and P.L. 115-123), now effective through March 23, 2018.

Although financial services are a focus of the FSGG bill, the bill does not actually include funding for most of the financial service regulators. Instead, this funding comes through a variety of sources, including fees or assessments on regulated institutions. (See CRS Report R43391, *Independence of Federal Financial Regulators: Structure, Funding, and Other Issues*.)

Federal regulation of the banking industry is divided among the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), the Office of Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB). In addition, credit unions are regulated by the National Credit Union Administration (NCUA), and the housing government-sponsored enterprises are regulated by the Federal Housing Finance Agency (FHFA). None of these agencies receive their primary funding through the appropriations process.

Federal securities regulation is divided between the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC), both of which are funded through appropriations bills. CFTC funding is appropriated from the general fund, whereas the SEC funding is offset through fees collected by the SEC.

Financial CHOICE Act Provisions

Although funding may not be provided by the FSGG bill, legislative provisions affecting financial regulation in general and some financial regulatory agencies specifically have often been included in FSGG bills.

The provisions in Titles IX and X of H.R. 3354 (Division D) are identical, or nearly identical, to some sections in the Financial CHOICE Act (H.R. 10), which passed the House on June 8, 2017. (For more information, see CRS Report R44839, *The Financial CHOICE Act in the 115th Congress: Selected Policy*

Issues.) Many of these provisions would amend the [2010 Dodd-Frank Act](#). H.R. 10, however, contained a much broader range of provisions than H.R. 3354. The Senate FSGG mark has few similar provisions, although it would put the CFPB under the regular appropriations process.

Table 1 below contains a listing of the sections from H.R. 3354 and the corresponding sections of H.R. 10. In addition to several provisions providing regulatory relief in banking and securities markets, policy changes in the FSGG bill include the following:

- **SIFI Designation.** Dodd-Frank applied enhanced prudential regulation to nonbank financial firms if they are designated as *systemically important financial institutions* (SIFIs) by the Financial Stability Oversight Council (FSOC). H.R. 3354 would repeal FSOC’s ability to designate nonbank financial firms for enhanced regulation.
- **OFR.** Dodd-Frank created the Office of Financial Research (OFR) to provide research support to FSOC. H.R. 3354 would eliminate OFR.
- **Appropriations.** As mentioned above, aside from the SEC and CFTC, most financial regulators determine their own budgets and assess fees to cover expenditures. H.R. 3354 as passed would bring the remaining financial regulators except for the NCUA—the FDIC, OCC, Fed, CFPB, and FHFA—as well as FSOC into the appropriations process. The Fed’s spending related to monetary policy and the FDIC’s deposit insurance fund would remain outside of the appropriations process. Fees and assessments that agencies currently collect to fund themselves would typically appear as offsetting collections.
- **CFPB.** In addition to the funding changes, H.R. 3354 would repeal the CFPB’s supervisory authority and its authority to regulate small dollar credit (e.g., payday loans); unfair, deceptive, or abusive acts and practices (UDAAP); and arbitration agreements in financial products.
- **Risk Retention.** H.R. 3354 would amend the provision of the Dodd-Frank Act mandating risk retention rules by applying those requirements only to securities that are wholly composed of residential mortgages. Securities backed by assets that are not residential mortgages—such as commercial real estate mortgages, commercial loans, auto loans, or other types of debt—would not be subject to the risk retention rule.
- **Volcker Rule.** The Volcker Rule from Dodd-Frank prohibits banks from proprietary trading of “risky” assets and from “certain relationships” with risky investment funds, including acquiring or retaining “any equity, partnership, or other ownership interest in or sponsor[ing] a hedge fund or a private equity fund.” H.R. 3354 would repeal the Volcker Rule.
- **Bankruptcy for Financial Institutions.** H.R. 3354 would add a new subchapter to the Bankruptcy Code designed specifically to handle the failure of certain financial firms.

Table 1. Provisions of the Financial CHOICE Act in H.R. 3354

Topic	H.R. 3354, Division D	H.R. 10
Repeals rules whose authority is eliminated by bill	Section 902	Section 2
Repeals various Financial Stability Act provisions	Section 903	Section 151
Brings financial regulators under appropriations (except NCUA due to H.Amdt. 443).	Sections 904-907; Section 925	Title III, Subtitle E; Section 712
Disclosures	Section 908	Section 426
Section 31 fees	Section 909	Section 416
Investment fund research	Section 910	Section 421

Topic	H.R. 3354, Division D	H.R. 10
Government-business forum on capital formation	Section 911	Section 446
Angel investors	Section 912	Sections 451-452
Venture capital funds	Section 913	Section 471
Manufactured housing	Section 914	Sections 501-502
Deposit account termination	Section 915	Section 511
FIRREA amendments	Section 916	Section 512
Loans held in portfolio	Section 917	Section 516
Small bank holding company policy	Section 918	Section 526
Community Institution Mortgage Relief	Section 919	Section 531
Regulations appropriate to business models	Section 920	Section 546
Jobs for loan originators	Section 921	Section 556
Small business loan data	Section 922	Section 561
Depository institution records and disclosure	Section 923	Section 576
Interest rate after loan transfer	Section 924	Section 581
CFBP authority and budget changes	Sections 925-929	Sections 712, 727, 733, 735, 737
Nonresidential risk retention	Section 930	Section 842
Prohibition in single ballot	Section 931	Section 845
Volcker Rule repeal	Section 932	Section 901
Financial institution bankruptcy	Title X	Section 121-123

Source: Congressional Research Service.

Other provisions related to financial regulation include Section 114 of Division A, which would repeal the Department of Labor’s 2016 [Fiduciary Rule](#), and H.Amdt. 441, which would prohibit the use of appropriated funds toward enforcing the SEC’s [conflict minerals](#) rule.

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